

### **REMARKS/ARGUMENTS**

Responsive to the Official Action mailed November 16, 2006, applicants submit herewith a Terminal Disclaimer, and respectfully request reconsideration of their presently pending claims.

In the Action, the Examiner rejected the pending claims for obviousness-type double-patenting. Applicants submit herewith a Terminal Disclaimer referencing two of the three co-pending applications cited by the Examiner; the third application is no longer co-pending, having been abandoned. It is respectfully submitted that this rejection can now be withdrawn.

In rejecting the pending claims under 35 U.S.C. §103, the Examiner has relied upon U.S. Patent No. 4,720,415, to Vander Wielen et al. However, it is respectfully submitted that, as set forth in the presently pending claims, applicants' novel nonwoven barrier construct is neither taught nor suggested by this reference, and accordingly, the Examiner's rejection is respectfully traversed.

At the outset, applicants must respectfully note that the Vander Wielen et al. reference *has essentially no teachings relating to barrier properties*, and as such, cannot properly be relied upon to teach or suggest applicants' novel composite barrier construct. As will be recognized by those skilled in the art, Vander Wielen et al. is directed to "a method of producing a composite elastic material" (see Abstract), with the disclosure relating to formation by stretching an elastic web to elongate it, for example, elongating a nonwoven web of *meltblown elastomeric fibers*".

Thus, the principal reference relied upon by the Examiner simply does not teach or suggest formation of a composite structure for providing barrier qualities.

In this regard, applicants respectfully refer to M.P.E.P. Section 2143.01, which specifically requires that "the prior art must suggest the desirability of the claimed invention" (citation omitted). In essence, this requirement of the M.P.E.P. mandates that prior art teachings "cannot be viewed in a vacuum", but instead, must be considered within the context of the document in which such teachings are found.

Perhaps more significantly, Vander Wielen et al. *does not teach a nano-denier barrier layer comprising continuous thermoplastic filaments*. Vander Wielen et al. is specifically limited in its teachings to providing *meltblown fibers*, which, as will be recognized by those skilled in the art, are relatively short, discrete fibrous elements formed attendant to attenuation and disruption of melt-extruded polymer by the action of associated high velocity air jets.

There can be little dispute but that the teachings of Vander Wielen et al. are so-limited. At column 4, lines 60 *et seq.*, referenced by the Examiner in her Action, Vander Wielen et al. states:

Elastic webs suitable for use in the invention include both elastic films and nonwoven fibrous webs such as, for example, *meltblown elastomeric fibrous webs*.

As will be recognized by those skilled in the art, formation of meltblown fibers is effected by attenuation and disruption of extruded material to form *small, discrete fibrous elements*. Thus, Vander Wielen et al. does not teach or suggest formation of *nano-denier continuous filaments* as specifically set forth in the presently pending claims.

Applicants respectfully refer to M.P.E.P. Section 2143.03, which specifically requires that "all claim limitations must be taught or suggested by the prior art" (citation omitted).

Thus, the Vander Wielen et al. reference not only fails to teach or suggest formation of a construct for an absorbent article *exhibiting enhanced barrier properties*, but moreover, fails to


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teach or suggest formation of such a construct from *nano-denier continuous filaments*, as specifically set forth in the presently pending claims. Accordingly, reconsideration is respectfully requested.

In view of the foregoing, formal allowance of claims 1-5 is believed to be in order and is respectfully solicited. Should the Examiner wish to speak with applicants' attorneys, they may be reached at the number indicated below.

The Commissioner is hereby authorized to charge any additional fees which may be required in connection with this submission to Deposit Account No. 23-0785.

Respectfully submitted,

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